IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

Crl.MC.No. 447 of 2005()

STC.1846/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR

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PETITIONER: ACCUSED

K.V.SHYLAJA, AGED 35,
D/O.CHINDA PODUVAL, ADVOCATE,
KIZHAKKEKARA VANNADIL,NEAR PERUMTHANNIYOOR TEMPLE,
PAYYANNUR.

BY ADV. SRI.A.MOHAMED MUSTAQUE
SRI.M.K.SUMOD

RESPONDENTS:

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1. K.V.SAJIL KUMAR, S/O.DIVAKARAN,
AGED 26, BUSINESS, KARIPATH HOUSE,
MAHADERA GRAMAM, PAYYANNUR.

2. STATE OF KERALA,REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR: SRI.K.A.AKBAR
SRI.M.V.AMARESAN
SRI.V.N.RAMESAN NAMBISAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT.J

Crl.M.C. No. 447 OF 2005

Dated this the 15th day of December 2006

ORDER

The Petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken by the learned Magistrate on the complaint filed by the respondent/ complainant/Payee under the cheque. Petitioner has come to this Court with a prayer that the proceedings may be quashed invoking the powers under Section 482 of the Cr.P.

2. What is the reason? The learned counsel for the petitioner only submits that in fact there is no liability for the petitioner to be discharged. The dispute is essentially civil in nature and the liability has been discharged also.

3. I shall scrupulously avoid any expression of opinion on the merits of the dispute. Suffice it to say that the contention raised by the petitioner are contentions which ought to be raised and established in the prosecution under Section 138 of the Negotiable Instruments Act. The availability of this contention before the court below will not in any

way justify the prayer for invocation of the extraordinary inherent jurisdiction under section 482 of the Cr.P.C

4. This Crl.M.C. is dismissed but with the observation that the dismissal of this Crl.M.C. will not in any fetter the rights of the petitioner to raise all appropriate and relevant contentions available, before the learned Magistrate

R.BASANT, JUDGE

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